

In the United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

OREGON-AMERICAN LUMBER
COMPANY, a corporation,
Plaintiff in Error,

vs.

MABEL SIMPSON and WAYNE
DEAN SIMPSON, EARL SIMPSON
and JOYCE SIMPSON, minors,
by MABEL SIMPSON, their
guardian ad litem,
Defendants in Error.

MOTION TO STRIKE BILL OF EXCEPTIONS

Upon Writ of Error to the District Court of the
United States for the District of Oregon.

Names and Addresses of the Attorneys of Record:

W. LAIR THOMPSON,

RALPH H. KING,

Northwestern Bank Building, Portland, Oregon,
for Plaintiff in Error

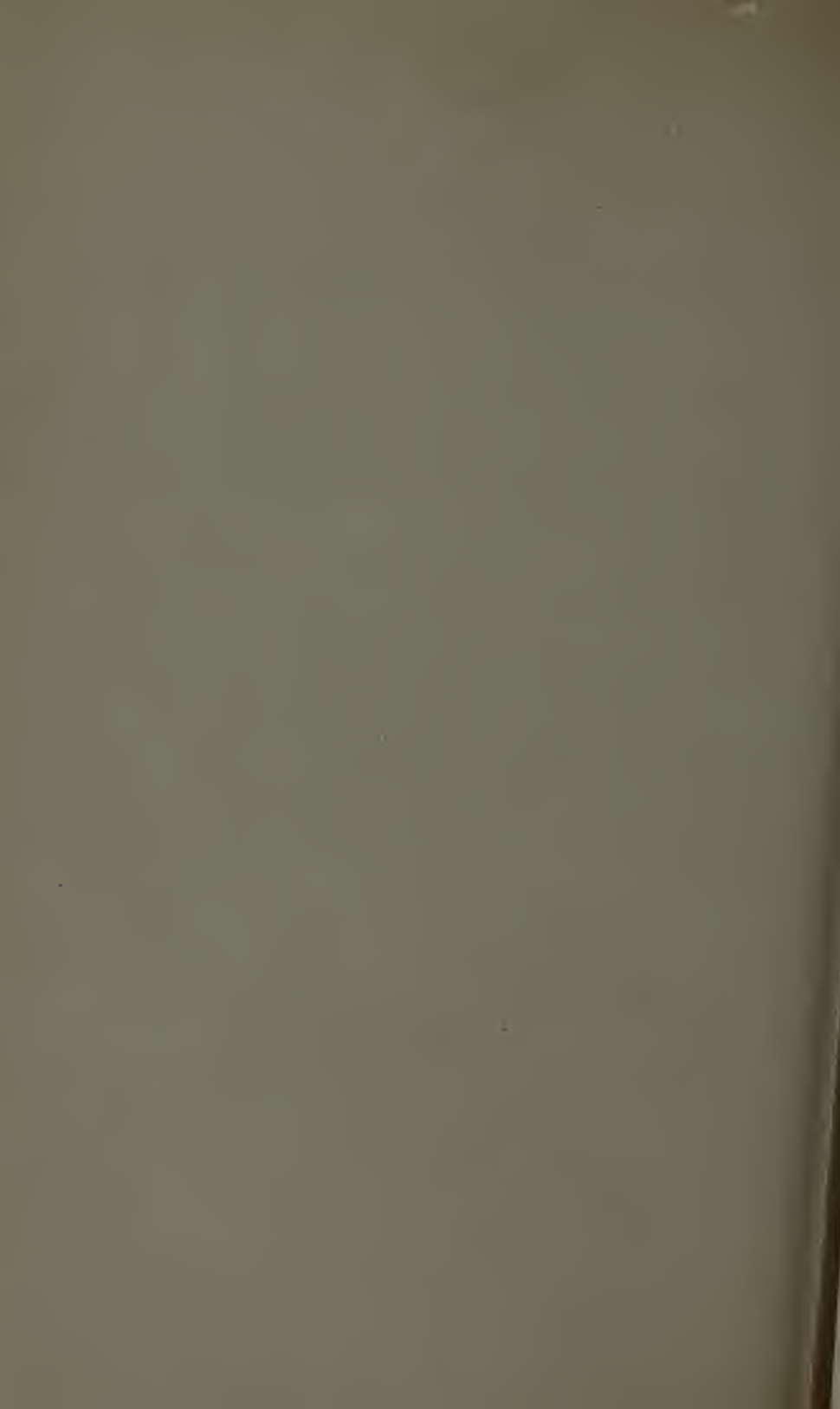
LORD & MOULTON,

Spalding Building, Portland, Oregon,
for Defendants in Error.

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F. D. MONCITON
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Come now the above named defendants in error, by their attorneys of record herein, and move the court to strike from the Transcript of Record herein that part thereof purporting to be a Bill of Exceptions, and beginning on page 47 of the printed Transcript of Record at the top of said page, and extending to and including page 271 of said printed Transcript of Record, on the ground and for the reason that the said portion of said Transcript purporting to be a Bill of Exceptions is neither in form

nor substance a Bill of Exceptions, and that the said purported Bill of Exceptions does not comply with Rule 4 of the Rules of the United States Supreme Court adopted December 22, 1911, which said rule, as far as the same is applicable to this cause, reads as follows:

“Rule 4. The judges of the District Courts, in allowing Bills of Exceptions, shall give effect to the following rules:

* * * *

“2. Only so much of the evidence shall be embraced in the Bill of Exceptions as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it may be set forth otherwise.”

This motion is further made upon the ground that there is included in said document purported to be a Bill of Exceptions, two hundred twenty-four pages of printed matter, including the whole of the reporter's transcript of the proceedings had; testimony taken, rulings of the Court and instructions to the jury in said cause, with no segregation thereof, not in condensed or narrative form, and that there is not set forth in said purported Bill of Exceptions any statement of any exception to

any ruling of the Court, nor does the Court in the certificate to said purported Bill of Exceptions, certify that any exceptions were taken or allowed, nor in anywise settle or certify any exceptions, or do other than to certify that the document contains all the evidence upon the trial of the action.

Respectfully submitted,

LORD & MOULTON,

Attorneys for Defendants in Error.

